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secured creditors enforced their claim against the property, the unsecured creditors must go unpaid, while on the other hand, if the secured creditors held off for a time, in all probability all would be paid. *Held*, that a receiver be appointed. *Thompson's Receivership*, 44 Pa. County Ct. 518.

For a discussion of the principles involved in this decision, see Notes p. 273.

EXECUTORS AND ADMINISTRATORS — PROCEEDINGS BY OR AGAINST — ALLOWANCE FOR COUNSEL FEES INCURRED IN DEFENCE OF BEQUEST. — A petition was filed for allowance from the estate for fees of counsel employed by executor to defend certain charitable bequests subsequently declared void. *Held*, that the petition be denied. *Arnold's Estate*, 64 Pitts. L. J. 596.

The argument is that an executor may not charge the estate unless he is acting in the interest of those eventually found to be entitled to the property. Originally an executor derived his authority entirely from the will. He acted as the representative of the deceased to carry out his wishes. Modern procedure merely requires the sanction of the court to this appointment and does not change the purpose. It would seem then that it was not only the privilege but the duty of the executor to defend the validity of the bequests and of the whole will. *Compton v. Barnes*, 4 Gill (Md.) 55; *Bradford v. Boudinot*, 3 Wash. (U. S. C. C.) 122; *Succession of Hefner*, 49 La. Ann. 407, 21 So. 905; *In re Title Guaranty & Trust Co.*, 114 App. Div. 778, 100 N. Y. Supp. 243. Wherefore he may defend a bequest even against the wishes of the legatees interested therein. *Reed v. Reed*, 74 S. W. 207 (Ky.). But he must be *bonâ fide* in the belief that there is a reasonable chance of upholding the bequest. *Henderson v. Simmons*, 33 Ala. 291; *Bratney v. Curry*, 33 Ind. 399; *Bowden v. Higgs*, 77 Tenn. 343. However, there is authority in support of the principal case, that the executor is acting in behalf of the legatees, and not for the testator. Under such theory it must follow that his recovery for counsel fees against the estate is limited to the interest in the estate of the legatee for whom he has acted. *Koppenhafer v. Isaacs*, 7 Watts (Pa.) 170. And he can have no charge upon the estate if unsuccessful. *Kelly v. Davis*, 37 Miss. 76. But a special provision in the will desiring the expenses of defending a bequest to be paid out of the estate must surely protect the executor. The *dictum* of the court that such a provision would be void if the bequest was void is difficult to sustain. For there can be no public policy against testing one's legal rights in court.

INTERSTATE COMMERCE — COMPETITION — REVIEW OF COMMISSION'S ORDERS. — The Panama Canal Act provided a heavy daily penalty for the operation after a certain date of steamship lines found by the Interstate Commerce Commission to be in competition with railroads which owned them. The Lehigh Valley Railroad petitioned the Commission, before the date from which the penalties under the Act were to run, to declare that there was no competition between the railroad and its steamers. After two hearings in which the Commission found as a fact that such competition existed, the railroad brought a bill in equity asking the District Court to enjoin the Commission's order, which had refused, on the ground of the competition found, to declare that the railroad might run its boats without penalty. *Held*, that the prayer be denied. *Lehigh Valley R. v. U. S.*, 234 Fed. 682.

The position of the Interstate Commerce Commission as a fact-finding body is put in question. Without a binding statutory declaration the conception has become crystallized that the orders of the Commission as an administrative body made after hearing evidence are reviewable only in so far as they exceed the Commission's statutory authority, violate a constitutional provision, reveal a mistake in law, or transcend the bounds of reason. *I. C. C. v. Ill. Cent. R.*, 215 U. S. 452; *I. C. C. v. Union Pacific*, 222 U. S. 541; *I. C. C. v. Louisville, etc. R.*, 227 U. S. 88; *Los Angeles Switching Case*, 234 U. S. 294. See